

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

|  |   |                 |
|--|---|-----------------|
| REORGANIZATION OF CONTEL CELLULAR OF     | ) |                 |
| LOUISVILLE, INC., CENTRAL KENTUCKY       | ) |                 |
| CELLULAR TELEPHONE COMPANY, LOUISVILLE   | ) |                 |
| CELLULAR TELEPHONE COMPANY, BLUEGRASS    | ) |                 |
| CELLULAR TELEPHONE COMPANY, CONTEL       | ) | CASE NO. 92-463 |
| CELLULAR OF LOUISVILLE II, INC., CONTEL  | ) |                 |
| CELLULAR OF LEXINGTON, INC., CUMBERLAND  | ) |                 |
| CELLULAR TELEPHONE COMPANY, INC., CONTEL | ) |                 |
| CELLULAR OF KENTUCKY, INC. AND CONTEL    | ) |                 |
| CELLULAR OF KENTUCKY B, INC.             | ) |                 |

O R D E R

On November 18, 1992, Contel Cellular, Inc. ("Contel") filed a notice of reorganization and request for order, which the Commission will treat as an application, wherein Contel plans to reorganize the corporate ownership structure of its various operating companies that are certified to provide telecommunications services to the public in Kentucky. Since the ultimate ownership and control will remain with the same parties, Contel does not believe Commission approval is required and requests the Commission confirm that no approval is required or, in the alternative, grant it approval under KRS 278.020.

FINDINGS

KRS 278.020 has two subsections, (4) and (5), which require Commission approval prior to acquisitions or transfers of interests in utilities. KRS 278.020(6) provides several exceptions to the requirements of Commission approval of acquisitions found in KRS 278.020(5). Specifically, (6)(b) of KRS 278.020 states:

"Subsection (5) of this section shall not apply to any acquisition of control of any . . . [u]tility by an acquirer who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such utility, including any entity created at the direction of such utility for purposes of corporate reorganization. . . ."

Since the proposed transaction is merely a corporate reorganization the Commission finds that KRS 278.020(6)(b) applies and that approval is not necessary pursuant to KRS 278.020(5).

However, Commission approval is needed under subsection (4) of KRS 278.020. That subsection applies to entities who acquire ownership or control of a utility as well as entities who transfer ownership or control with no exemption for corporate reorganizations. Contel submits that since the ultimate control of each utility remains with the same entity there is not really a change in control. This proposition is not accepted by the Commission. Each subsidiary corporation and partnership must be treated as a separate entity by the Commission to be consistent with the application of general corporation law.

The Commission must grant its approval of the transfer if the acquirer has the financial, technical, and managerial abilities to provide reasonable service.

The Commission finds that the reorganization is for a proper purpose and is consistent with the public interest. No new securities or evidence of indebtedness will be issued. The three resulting companies, Contel Cellular of Kentucky, Inc., Contel

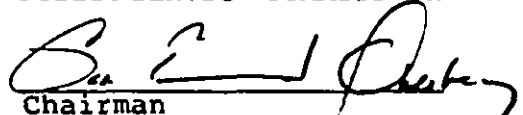
Cellular of Kentucky B, Inc., and Cumberland Cellular Telephone Company, Inc., will have the financial, technical and managerial ability to provide reasonable service since they will have the same assets and personnel that are currently used to provide service in these areas.

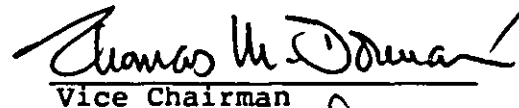
IT IS THEREFORE ORDERED that:

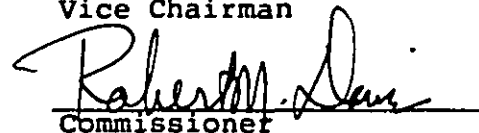
1. The proposed reorganization shall be and hereby is approved.
2. Contel shall give notice to the Commission within 30 days of completion of the proposed reorganization.
3. In the event the reorganization does not take place as described in the application, Contel shall immediately notify the Commission in writing.
4. Contel shall file the appropriate adoption notices within 20 days of completion of the proposed reorganization.
5. Contel shall file revised tariff sheets within 30 days of completion of the proposed reorganization.

Done at Frankfort, Kentucky, this 14th day of December, 1992.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director